

*****ATTACHMENTS*****

II

3.1

R. O. No. 233- 14 - 15. By CITY CLERK. February 2, 2015.

Submitting a communication from Attorney Zufelt requesting that the City of Sheboygan bless an Assignment of Lease from Sail Sheboygan to SEAS.

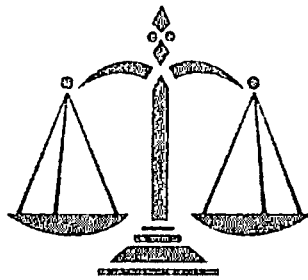
Susan Richards

City Clerk

Finance

II

1911



ZUFELT LAW OFFICES, LLC

Eric S. Zufelt, Attorney & Counselor at Law
January 27, 2015

City of Sheboygan Attorney's Office
Attn: Steven McClean
807 Center Ave
Sheboygan, WI 53081

RE: Request for Approval of Assignment of Lease

Dear Attorney McClean:

As you know, I represent the Sailing Education Association of Sheboygan, Inc. ("SEAS"). SEAS, and Sail Sheboygan, Ltd. ("Sail Sheboygan"), an entity that SEAS supports and has strong involvement, are planning on undergoing a statutory merger in the near term with SEAS remaining as the surviving entity. This merger is expected to provide numerous benefits for the organizations and create a number of synergies.

Sail Sheboygan and the City of Sheboygan entered into a Memorandum of Lease ("Lease") dated January 28th, 2009, regarding a certain premises located south of and adjacent to 619 Broughton Drive in the City of Sheboygan. (See Attached Memorandum of Lease). Section Twenty-Six (26) of the Lease provides that "all of the terms, covenants and conditions contained [in the Lease] shall continue and bind all successors in interest of Sail Sheboygan." SEAS, as the surviving entity in a merger, will be the successor in interest as applied to the Lease. The Lease contains no further requirements with respect to a successor in interest.

SEAS' intention is to keep the Sail Sheboygan brand alive and to make it a committee of SEAS. The purposes for which the City of Sheboygan granted leasehold rights to Sail Sheboygan shall remain unchanged.

In light of the forgoing, SEAS is respectfully requesting that the City of Sheboygan bless an Assignment of Lease from Sail Sheboygan to SEAS. If this action requires Council or Committee approval, I am respectfully requesting that this matter be placed on the agenda for the next Council meeting.

Very Truly Yours,


Eric S. Zufelt, Esq.

Trace

630 Riverfront Drive, Suite 230 • Sheboygan, WI 53081 • Email: ezufelt@windway.com
Phone: 920-457-8609 • Fax: 920-452-8294 • Cell: 920-889-0760

Admitted to Practice Law in Florida and Wisconsin
Certified NFL and CFL Players Association Contract Advisor/Agent

SHEBOYGAN COUNTY, WI
RECORDED ON
01/29/2009 09:37AM

ELLEN R. SCHLEICHER
REGISTER OF DEEDS

RECORDING FEE: 17.00
TRANSFER FEE:
EXEMPTION #

STAFF ID 6
TRANS # 126463
OF PAGES: 4

Document Number

MEMORANDUM OF LEASE

Memorandum of Lease made and entered into as of this 28th day of January, 2009, by and between the City of Sheboygan, Wisconsin, a municipal corporation ("Landlord") and Sail Sheboygan, Ltd., a not for profit corporation ("Tenant").

WITNESSETH:

That Landlord, for and in consideration of the covenants and agreements to be kept and performed by the Tenant, demises and leases unto the Tenant, and the Tenant does hereby hire and rent from the Landlord, the premises hereinafter described, for the period and upon the terms and conditions hereinafter specifically set forth:

1. Description of Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the entire premises located south of and adjacent to 619 Broughton Drive in the City of Sheboygan legally described on attached Exhibit A (the "Premises"), and as depicted upon the site plan attached as Exhibit B.

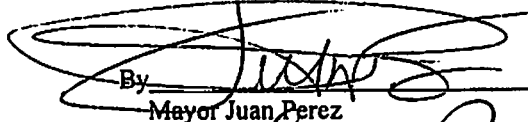
2. Term of Lease. The initial term of this Lease shall be for ninety-nine years, commencing on January 1, 2009 and terminating on December 31, 2108.

3. Other Terms and Conditions. The terms, conditions, and other provisions of this Lease are set forth in a Lease Agreement between the parties hereto, dated January 28, 2009 express reference to which is hereby made for greater particularity, as to the terms, conditions and provisions thereof. Copies of the Lease Agreement are in the official records of the City of Sheboygan and in the possession of the Tenant. The Lease Agreement should be reviewed in the event information on the specific terms, conditions, and other provisions is needed.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

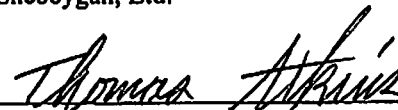
City of Sheboygan, Wisconsin, a municipal corporation

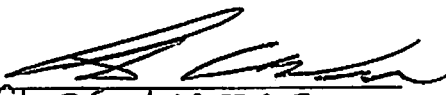
By 
Mayor Juan Perez

Attest 
Susan Richards, City Clerk

TENANT:

Sail Sheboygan, Ltd.

By 
Thomas Atkins, President

By 
*Chris Werner

This space reserved for Recording Data

Name and Return Address

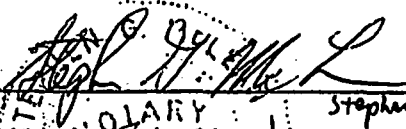
Attorney Robert T. Melzer
Rohde Dales LLP
607 N. 8th Street, 7th Floor
Sheboygan, WI 53081

Part of 59281 112960
(Parcel Identification Number)

STATE OF WISCONSIN

SHEBOYGAN COUNTY

Personally came before me this 28th day of January, 2009, Juan Perez, Mayor, and Susan Richards, City Clerk, of the City of Sheboygan, Wisconsin, to me known to be the persons who executed the foregoing instrument, and to me known to be the Mayor and City Clerk of the City of Sheboygan, Wisconsin, and acknowledged that they executed the foregoing instrument as such officials of the City of Sheboygan, Wisconsin by its authority in accordance with Res. No. 182-08-09.


* Stephen G. McLean
Notary Public, SHEBOYGAN County, Wisconsin
My Commission is permanent.
(If not, state expiration date: _____)

This instrument was drafted by:
I † T. Melzer
Roude Dales LLP

STATE OF WISCONSIN

SHEBOYGAN COUNTY

Personally came before me this ^{Chris Werner} 28th day of January, 2009, Thomas Atkins, President and ~~Jennifer D. Westenberger~~ of the above-named Sail Sheboygan, Ltd., to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Treasurer of said Corporation, and acknowledged that they executed the foregoing instrument as such officers of said Corporation by its authority.

Jennifer D. Westenberger
* Jennifer D. Westenberger
Notary Public, Sheboygan County, Wisconsin
My Commission is permanent.
(If not, state expiration date: 7/19/09)

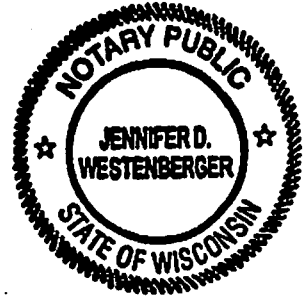


EXHIBIT "A"

Part of the NE 1/4 of the SE 1/4 Sec. 23, T15N, R23E, City of Sheboygan, Sheboygan County, Wisconsin;

More particularly described as;

Commencing at a point on the southerly line of Center Avenue prolonged to the east and the easterly line of Broughton Drive; thence N 90°00'00" E along said southerly line, 130.25 feet to the point of beginning (POB); thence N 02°33'11" E, 10.59 feet; thence 73.40 feet along the arc of a curve to the left having a radius of 75.51 feet and a chord that bears N 45°28'20" E, 70.54 feet; thence N 18°33'30" E, 23.95 feet; thence S 89°27'49" E, 19.01 feet; thence N 06°58'28" E, 108.83 feet; thence S 86°44'22" E, 39.84 feet; thence S 56°07'34" E, 5.00 feet to a meander line of Lake Michigan; thence S 17°13'46" W along said meander line, 194.26 feet; thence S 90°00'00" W along said southerly prolonged line of Center Avenue, 77.00 feet to the point of beginning (POB); inclusive of lands between said meander line and the waters edge of Lake Michigan; inclusive of riparian rights; containing 11,273 S.F. (0.259 AC.) more or less of land to the waters edge.

GROUND LEASE AGREEMENT
BETWEEN CITY OF SHEBOYGAN
AND SAIL SHEBOYGAN, LTD.

This Lease Agreement (Agreement) is made and entered into as of the 28th day of January, 2009, between the City of Sheboygan, Wisconsin, a municipal corporation, hereinafter referred to as "CITY", and Sail Sheboygan, Ltd., a not for profit corporation, hereinafter referred to as "SAIL SHEBOYGAN".

INTRODUCTORY STATEMENT

CITY desires to lease certain City-owned property to SAIL SHEBOYGAN and the SAIL SHEBOYGAN desires to lease same from CITY for the purpose of building and operating a sailing center for developing and promoting competitive sailing.

LEASE AGREEMENT

In consideration of the mutual covenants contained herein, CITY hereby leases to SAIL SHEBOYGAN, property legally described and depicted upon the site plan in Exhibit A, attached hereto and incorporated herein by this reference, together with all associated riparian rights, (together the "PREMISES"), upon the following terms and conditions:

1. TERM. The term of this Agreement shall be for a period of ninety-nine (99) years, commencing on the 1st day of January, 2009, and terminating on the 31st day of December, 2108.

2. RENT. SAIL SHEBOYGAN agrees to pay CITY as rent for the PREMISES one (\$1.00) dollar annually. The rental payment shall be made on or before the first day of January of each year during the term of this Agreement payable to the City Finance Director/Treasurer. In the event that SAIL SHEBOYGAN fails to pay rent pursuant to the provisions of this paragraph, then due to the amount of rent and in consideration of the improvements and services provided by SAIL SHEBOYGAN under this Agreement, CITY shall be required to mail notice of default for non-payment of rent to SAIL SHEBOYGAN three (3) months prior to terminating the lease, whether pursuant to paragraph 16 or 20 of this Agreement or otherwise.

3. PURPOSES, USES AND IMPROVEMENTS. The PREMISES shall be used and improved, without cost to CITY, for the following uses and purposes:

- (a) Primary Uses. To construct and operate a sailing center to conduct and promote competitive sailing activities leading to and including national and international sailing competition;
- (b) Secondary Uses. SAIL SHEBOYGAN may in its discretion make the PREMISES available to SHEBOYGAN YOUTH SAILING

CLUB, Inc. (Youth Sailing) for its use in teaching sailing and seamanship and such additional recreational uses and or competition and SAIL SHEBOYGAN may in its discretion make the PREMISES available to Sea Scout Ship #50 so long as said activities remain secondary to the primary purposes set forth above.

In addition, SAIL SHEBOYGAN may make such changes, alterations, or improvements as may be necessary or desired by SAIL SHEBOYGAN to adapt the PREMISES for the permitted public recreational uses described above, provided that such changes, alterations, or improvements are without cost to CITY.

4. APPROVAL OF PLANS.

- (a) Preliminary and final detailed plans, surveys, estimates of cost, specifications, proposal forms, and necessary special provisions for the construction of the facility and any other improvements, fixtures and appurtenances which are desired by SAIL SHEBOYGAN and permitted under the terms of this Agreement shall be prepared by SAIL SHEBOYGAN without any cost or expense to CITY. All such plans, specification, special provisions and construction projects shall be submitted to and approved by CITY, in writing, prior to commencement of construction.
- (b) SAIL SHEBOYGAN agrees, at its sole cost and expense, to build or cause to be built the facility and all other improvements, fixtures and appurtenances requested by SAIL SHEBOYGAN, approved by CITY and permitted under the terms of this Agreement in a good and workmanlike manner in accordance with the plans and specifications referred to above, and in conformity with all applicable federal, state and local laws, regulations, codes and ordinances and without any cost or expense to CITY. SAIL SHEBOYGAN shall, prior to commencement of construction, procure or cause to be procured all necessary and requisite approvals from any and all state, municipal, and other governmental authorities, officers and departments having jurisdiction thereof and obtain any and all requisite building, construction or other licenses, permits or approvals regarding such construction.
- (c) The provisions of subparagraph 4(a) above shall not apply to any maintenance, repairs, or nonstructural cosmetic interior alterations, which are desired by SAIL SHEBOYGAN, as long as they are permitted under the terms of this Agreement and are completed without any cost or expense to CITY. In the event of any replacement by SAIL SHEBOYGAN of the building, facility, or

any other improvement, fixture or appurtenance, the approval of CITY shall not be unreasonably withheld or delayed, as long as the replacement is substantially similar to the building, facility, improvement, fixture, or appurtenance being replaced and further provided that the replacement is completed without any cost or expense to CITY.

5. LIENS. During the term of this Agreement, or any extensions thereof, SAIL SHEBOYGAN shall not suffer or permit any liens to be filed against the interest of CITY in the PREMISES, and nothing in this Agreement shall be deemed or construed in any way as constituting the consent of CITY, express or implied, to any contractor, subcontractor, laborer, materialman or supplier for the performance of any labor or the furnishing of any materials for any improvement, alteration or repair to the PREMISES or any part thereof.

CITY shall have the right to demand of SAIL SHEBOYGAN evidence of the payment or financing of all claims for materials and labor furnished for any improvement or alteration to the PREMISES.

6. STATUS OF PROPERTY. SAIL SHEBOYGAN has examined the PREMISES and accepts it in its present condition. CITY agrees to relieve SAIL SHEBOYGAN of liability and responsibility for any environmental monitoring, damage or harm arising from the disposal by or on behalf of CITY of any hazardous or toxic substances on the PREMISES prior to the effective date of this Agreement, except for any such liability or responsibility attributable to the negligence or intentional conduct of SAIL SHEBOYGAN, its officers, directors, agents, or invitees.

SAIL SHEBOYGAN agrees to relieve CITY of liability and accept responsibility for any environmental monitoring, damage or harm arising from the disposal by or on behalf of SAIL SHEBOYGAN or any other parties to whom SAIL SHEBOYGAN may make the PREMISES available under this Agreement of any hazardous or toxic substances on the PREMISES during the term of this AGREEMENT and any extensions thereof, except for any such liability or responsibility attributable to the negligence or intentional conduct of CITY, its officers, officials, agents, or invitees.

Furthermore, SAIL SHEBOYGAN will keep the PREMISES safe and in good order consistent with its permitted uses and, upon expiration, cancellation or early termination of this Agreement, SAIL SHEBOYGAN will surrender possession peaceably.

7. ASSIGNMENT. SAIL SHEBOYGAN shall not assign or sublet this Agreement or any interest therein without the written consent of CITY, except as permitted in paragraph 3 above. Furthermore, neither this Agreement nor any interest herein shall be mortgaged, pledged or hypothecated by SAIL SHEBOYGAN. SAIL SHEBOYGAN shall have the right to license the limited use of the PREMISES, including without limitation for certain national or international sailing competition

events on specified days, so long as this licensing of the PREMISES does not interfere with the use of the PREMISES set forth in paragraph 3 above.

Notwithstanding the above, CITY acknowledges that SAIL SHEBOYGAN's interest in the PREMISES and this Agreement may be assigned as collateral either (1) to the trustee of any industrial revenue bonds issued by CITY to finance construction of the facility provided for in this Agreement, or (2) to another not for profit entity which will finance construction of the facility provided for in this Agreement, has a similar use and purpose, and agrees to abide by the terms and conditions of this Agreement in the event of default.

8. REPAIRS AND MAINTENANCE. SAIL SHEBOYGAN agrees to make or cause to be made any and all improvements and repairs at its sole expense and agrees to keep said PREMISES in good order and repair at all times during the term hereof.

CITY agrees to be responsible for removing snow from any and all public drives leading to the PREMISES.

9. UTILITIES AND CHARGES. SAIL SHEBOYGAN agrees to pay and shall be responsible for any and all utility charges including, but not limited to, heat, light, electrical, telephone, sewer, water and garbage during the term of the Agreement which are attributable to its occupancy and use of the PREMISES.

10. SIGNS AND FENCES. SAIL SHEBOYGAN shall not erect, install or operate, in or upon the PREMISES, any signs or other similar advertising devices or fences except permitted structures accessory to any of the permitted uses of the PREMISES pursuant to the applicable zoning ordinances of CITY.

11. COMPLIANCE WITH LAW. SAIL SHEBOYGAN shall not permit any undue waste or nuisance of any nature to be created or to remain on the PREMISES and will comply with all applicable laws and ordinances respecting the use and occupancy thereof; provided, however, that this Agreement shall constitute a legal right to continue the same use of the PREMISES as set forth in paragraph 3 above during the entire term of this Agreement and the leasee's right to the continuation such use in an otherwise legal manner (even if nonconforming to changes in zoning classifications or changes in conditional use permit requirements or restrictions) shall not be abrogated or diminished by the CITY's adoption or amendment of any law or ordinance after the date of this Agreement.

12. RIGHT OF ENTRY. SAIL SHEBOYGAN shall allow CITY'S authorized representative(s) access to the PREMISES at all reasonable hours, for the purposes which are necessary, incidental to or connected with the performance of its obligations hereunder, or in the exercise of its governmental functions. CITY agrees to exercise such rights of access in a manner to be as least disruptive as possible.

13. TAXES. To the extent not otherwise tax exempt, SAIL SHEBOYGAN shall pay any and all taxes levied and assessed upon the PREMISES and upon any personal property, buildings, fixtures and improvements belonging to SAIL SHEBOYGAN and located upon the PREMISES, promptly and before delinquency.

In addition, SAIL SHEBOYGAN shall pay any and all special assessments and similar special charges levied or assessed against the PREMISES, promptly and before delinquency.

14. INSURANCE. During the term of this Agreement, or any extensions thereof, SAIL SHEBOYGAN agrees to maintain in full force and effect comprehensive public liability insurance protecting both SAIL SHEBOYGAN and CITY against claims for personal injury or death or property damage suffered by others occurring during the term of this Agreement, or any extensions thereof, which arise out of or in connection with the use and occupancy of the PREMISES by SAIL SHEBOYGAN by its permittees or invitees. The minimum limits of liability of such coverage shall be one million (\$1,000,000) dollars for personal injuries or death growing out of one accident, occurrence or other cause. SAIL SHEBOYGAN shall furnish CITY with a certificate from its insurance carrier or carriers showing the required insurance to be in full force and effect during the term of this Agreement, or any extensions thereof.

SAIL SHEBOYGAN shall provide to CITY, prior to the commencement of any work for the construction of improvements on the PREMISES approved by CITY, evidence of insurance coverage in sums acceptable to CITY protecting both SAIL SHEBOYGAN and CITY against public liability and/or property damage against claims for personal injury or death or property damages suffered by others as a result of the work or improvement.

SAIL SHEBOYGAN shall procure and maintain in full force fire and extended coverage insurance upon its leasehold improvements, furnishings, fixtures and equipment to the full insurable value thereof and shall furnish to CITY evidence that such coverage has been procured and is being maintained in full force and effect during the term of this Agreement, or any extensions thereof.

In the event the improvements upon the PREMISES are completely destroyed, or so damaged as to be unfit for the primary purposes and uses permitted in paragraph 3, above, and, if within six (6) months after the time of such damage or destruction, the improvements shall not have been rebuilt or repaired so as to be fit for said uses, CITY shall have the right to cancel this Agreement in its entirety.

15. INDEMNIFICATION. SAIL SHEBOYGAN covenants and agrees to and does hereby indemnify, hold harmless and defend CITY from and against any and all claims or suits for property loss or damage and/or personal injury, including death of any and all persons, of whatsoever kind or character, whether real or asserted, arising out of or in connection with the leasing, maintenance, use, occupancy, existence or location of the PREMISES, or from defects in the PREMISES, whether apparent or hidden, except

where caused, in whole or in part, by the intentional or negligent acts of CITY: SAIL SHEBOYGAN shall likewise indemnify and hold harmless CITY for any and all injury or damage to the PREMISES, whether arising out of or in connection with any and all acts or omissions of SAIL SHEBOYGAN, its officers, agents, members, employees, contractors, subcontractors, licensees, invitees or trespassers, except where caused by the intentional or negligent acts of CITY. SAIL SHEBOYGAN also agrees to pay all reasonable expenses and attorney's fees incurred by CITY in the event that SAIL SHEBOYGAN shall default under the provisions of this paragraph.

16. TERMINATION OF LEASE AGREEMENT. In addition to the breach of any other covenant of this lease, this Agreement may be terminated by CITY three (3) months following written notice to SAIL SHEBOYGAN of any of the following conditions if said conditions remain unremedied after such notice;

- (a) Failure of SAIL SHEBOYGAN to pay any utility charges attributable to their occupancy of the PREMISES which is assessed to CITY, as owner of the PREMISES, and placed on CITY tax rolls of said PREMISES.
- (b) Failure of SAIL SHEBOYGAN to pay taxes and assessments as provided herein.
- (c) Upon the filing of any judgment liens against the property.
- (d) In the event that SAIL SHEBOYGAN discontinues its use of the PREMISES for a period of at least nine (9) consecutive months for the primary permitted uses as set forth in paragraph 3, above, for any reason.
- (e) The adoption of a resolution by the Common Council of the CITY which requires termination of this lease to promote an articulated necessary public interest.

CITY, prior to termination of this Agreement under paragraph 16 and/or 20, in the event any industrial revenue bonds issued by CITY for SAIL SHEBOYGAN's benefit in financing construction of the facility provided for in this Agreement are outstanding, agrees to notify the trustee at least ten (10) days prior to termination and provide the trustee an opportunity to cure the default within ten (10) days of the notice.

17. SURRENDER AT END OF TERM. SAIL SHEBOYGAN covenants that, upon termination of this Agreement, it shall peacefully and quietly surrender and yield to CITY the PREMISES in as good order and condition as the same were at the commencement of occupancy, subject to normal wear and tear and conditions caused by fire or other event covered by insurance.

18. NO RELOCATION COSTS. Except as otherwise herein provided, in the event this Agreement is terminated, cancelled or not renewed, SAIL SHEBOYGAN agrees and fully understands that it shall not be entitled to any relocation costs, assistance, or payments, any moving expenses, replacement facilities (in money or kind) or any other expenses, costs or awards which are directly or indirectly related to such termination, cancellation or non-renewal of this agreement; however, SAIL SHEBOYGAN expressly does not waive any relocation rights it may have on account of termination of this Agreement by CITY pursuant to Section 16(e) above or condemnation by CITY as described in paragraph 19. SAIL SHEBOYGAN hereby affirms that this waiver is made with full knowledge of current relocation provisions.

19. EMINENT DOMAIN.

- (a) Total Condemnation of Premises. If the whole of the PREMISES shall be taken by any public authority under the power of eminent domain or sold to public authority under threat or in lieu of such a taking, or pursuant to Section 16(e) above, then the term of this Agreement shall cease as of the day possession shall be taken by such public authority, and the rent shall be paid up to that day with a proportionate refund by CITY of such rent and other charges as may have been paid in advance for a period of subsequent to the date of the taking.
- (b) Partial Condemnation. If more than fifty (50%) percent of the building located upon the PREMISES, or more than (50%) percent of the PREMISES, shall be taken by any public authority under the power of eminent domain or sold to public authority under the threat or in lieu of such a taking, SAIL SHEBOYGAN may, by written notice to CITY delivered on or before the sixtieth (60th) day following the date of surrendering possession to the public authority, terminate this Agreement as of the day possession is taken by public authority. The rent and other charges shall be paid up to the day possession is taken by public authority, with an appropriate refund by CITY of such rent as may have been paid in advance for a period subsequent to that date.
- (c) Division of Award of Damages. All damages awarded for such taking under the power of eminent domain or sale under threat or in lieu of such a taking, whether for the whole or in part of the PREMISES, or pursuant to Section 16(e) above, shall be divided by CITY and SAIL SHEBOYGAN, based upon the value of the interest held by each party in the PREMISES, the foregoing stipulation and agreement for division of any award of damages being in consideration for the following factors: (1) value of the improvements to the PREMISES provided by SAIL SHEBOYGAN and other third parties under this Agreement,

without any cost or expense to CITY, and (2) the duration of the Agreement. SAIL SHEBOYGAN shall have the right to prove the value of its leasehold interest in the PREMISES for the remaining term of the Agreement, either as compensation for diminution in value to the leasehold in the event of a partial taking or the entirety of the value in the event of total condemnation or termination after partial taking, and SAIL SHEBOYGAN shall have a claim against the condemning authority with respect thereto.

20. DEFAULT.

- (a) In the event that SAIL SHEBOYGAN shall be in default of any payment of rent or in the performance of any of the terms and conditions herein agreed to be kept and performed by SAIL SHEBOYGAN, which shall remain unremedied for three (3) months after written notice of such default has been mailed as set forth in paragraph 16 above, then in that event, CITY may terminate and end this Agreement, forthwith, and CITY may enter upon said PREMISES and remove all persons and property therefrom, and SAIL SHEBOYGAN shall not be entitled to any money paid hereunder or any part thereof; in the event CITY shall bring a legal action to enforce any of the terms hereof, or to obtain possession of the PREMISES by reason of any default by SAIL SHEBOYGAN, SAIL SHEBOYGAN agrees to pay CITY all reasonable costs of such legal action.
- (b) In the event SAIL SHEBOYGAN should be in default of this Agreement, then YOUTH SAILING shall have the secondary right to cure any default in this Agreement prior to the termination date. In the event that SAIL SHEBOYGAN fails to commence to cure the default or to thereafter continue with diligence to do so, then upon YOUTH SAILING doing so and assuming in writing the obligations of the lessee under this Agreement, YOUTH SAILING, shall become the lessee and shall have all the rights and obligations afforded the lessee under this Agreement, and SAIL SHEBOYGAN's rights to the PREMISES shall then terminate, but SAIL SHEBOYGAN shall remain responsible for any liability existing or accruing prior to the attornment to YOUTH SAILING.

21. NOTICES. Any notices which are required hereunder, or which either party may desire to serve upon the other, shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage prepaid, return receipt requested, addressed to the following:

CITY: 828 Center Avenue
Sheboygan, WI 53081
ATTN: CITY CLERK

SAIL SHEBOYGAN: Sail Sheboygan, Ltd.
c/o Rohde Dales LLP
607 North 8th St., 7th Fl.
Sheboygan, WI 53081

With a copy to: Rohde Dales LLP
607 North 8th St., 7th Fl.
Sheboygan, WI 53081

A party's address may be changed at any time or from time to time by written notice given to the other party pursuant to the manner of notice set forth in this paragraph.

22. WAIVER. Waiver by CITY of any default in performance by SAIL SHEBOYGAN of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

23. NONDISCRIMINATION. SAIL SHEBOYGAN shall not discriminate against any employee or applicant for employment as defined by State or Federal law, nor shall SAIL SHEBOYGAN unlawfully discriminate against any of the general public who enter upon the PREMISES. SAIL SHEBOYGAN shall comply with any requirements of State or Federal law as applicable as a result of Federal funds used in the acquisition of the PREMISES.

24. INVALID PROVISIONS. In the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way effect any other covenant, condition or provision herein contained, provided that the invalidity of such covenant, condition or provision does not materially prejudice either CITY or SAIL SHEBOYGAN in their respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

25. RIGHT OF FIRST REFUSAL. During the term of this Agreement and any extension thereof, the CITY grants SAIL SHEBOYGAN the right of first refusal to purchase the PREMISES. Pursuant to this right of first refusal, if CITY receives a bona fide offer to purchase the PREMISES and desires to accept it, CITY shall give written notice of such offer to SAIL SHEBOYGAN in the manner set forth in paragraph 16 above, advising SAIL SHEBOYGAN of all of the terms and conditions of such bona fide offer. SAIL SHEBOYGAN shall have the option, exercisable by delivering written notice to the CITY within forty-five (45) days after receipt of written notice of such offer, to acquire the PREMISES upon the same terms and conditions as set forth in the bona fide offer. Such notice given by SAIL SHEBOYGAN to CITY shall be in writing and by

personal delivery or by certified mail, return receipt requested. Upon giving such notice of intent to exercise this right of first refusal, the sale of the PREMISES by CITY to SAIL SHEBOYGAN shall be consummated within the greater of forty-five (45) days after SAIL SHEBOYGAN gives such notice of intent or the time set forth in the bona fide offer. Should SAIL SHEBOYGAN fail to exercise the right of first refusal herein granted within the specified time period (it being understood that time is of the essence), the right of first refusal shall thereupon terminate and be of no further force and effect.

26. SUCCESSORS IN INTEREST. All of the terms, covenants and conditions contained herein shall continue and bind all successors in interest of SAIL SHEBOYGAN.

27. FORCE MAJEURE. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then performance of such act shall be excused for the period equivalent to the period of such delay, or if a longer period is reasonably required, within such longer period as is reasonably required, provided that SAIL SHEBOYGAN provides CITY prompt written notice of such delay and the reasons therefor and further provided that SAIL SHEBOYGAN acts with due diligence to cure such defect or defects promptly.

28. CONSENTS. In the event consents are required of either CITY or SAIL SHEBOYGAN, upon request of one to the other, such consents shall not be unreasonably withheld or delayed.

29. COOPERATION.

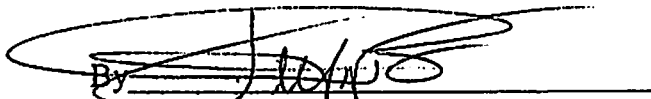
- (a) CITY and SAIL SHEBOYGAN agree to cooperate in the prosecution of applications made by either party for any governmental certificates or approvals appropriate or necessary for the consummation of the transactions contemplated by this Agreement or the use and occupancy of the PREMISES. CITY and SAIL SHEBOYGAN each agree at any time or from time to time at the written request of the other to sign and deliver such other documents as may be reasonably requested or as may be reasonably necessary or appropriate to give full effect to the terms and conditions of this Agreement.
- (b) SAIL SHEBOYGAN agrees to cooperate with YOUTH SAILING, its neighbor to the North so as to minimize the interference with such neighbor use of their property and upon request shall make available these PREMISES for their limited use, so long as it does not adversely affect SAIL SHEBOYGAN's stated use of the PREMISES.


- (c) Any disputes between SAIL SHEBOYGAN and YOUTH SAILING shall be resolved as follows:
- (1) The parties have entered into this Agreement in good faith and in belief that it is mutually advantageous to them. It is with the same spirit of cooperation that they pledge to attempt to resolve any dispute amicably without the necessity of litigation. Accordingly, they agree if any dispute arises between them relating to this Agreement (the "Dispute"), they will first utilize the procedures specified in this Article (the "Procedure" or "ADR") before any Additional Proceedings, and will participate in ADR in good faith to its conclusion. The ADR sessions shall be in private and all information exchanged and communications in connection therewith shall be confidential.
 - (2) The party seeking to initiate the Procedure (the "Initiating Party") will give written notice to the other Parties. The notice must describe in general terms the nature of the Dispute and the Initiating Party's claim for relief. Additionally, the notice must identify one or more individuals with authority to settle the Dispute on the Party's behalf. The Parties receiving the notice (the "Responding Party," whether one or more) will have seventeen (17) business days within which to designate by written notice to the Initiating Party, one or more individuals with authority to settle the Dispute on the Party's behalf. The individuals so designated will be known as the "Authorized Individuals." The Responding Party may authorize himself or herself as an Authorized Individual. The Initiating Party and the Responding Party will collectively be referred to as the "Disputing Parties" or individually "Disputing Party."
 - (3) The Parties may investigate the Dispute as they deem appropriate. But they agree to promptly, and in no event later than 30 days from the date of the Initiating Party's written notice, meet to discuss the Dispute's resolution. The Parties will meet at the times and places and with the frequency as they may agree. If the Dispute has not been resolved within 30 days from their initial meeting date, the Parties will cease direct negotiations and will submit the Dispute to mediation in accordance with the following procedure.

- (4) If the dispute is not resolved through Direct Negotiations the parties agree to submit to mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association. The Parties shall attempt to agree on a mediator. If the Parties are unable to agree on a mediator, then the Party requesting mediation shall request the Circuit Court for Sheboygan County to appoint a mediator as soon as possible. The mediation shall take place within 45 days of the selection of the mediator. Each Party, in good faith, shall supply information requested from the other. The Parties, at their option, may be represented by counsel. The mediation session shall be in private and all information exchanged and communications in connection therewith shall be confidential. The cost of the mediation shall be borne equally by the Parties.
- (5) If the Disputing Parties are not successful in resolving the dispute through the mediation, then the Disputing Parties agree that the dispute will be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. If the parties cannot agree on a place for the arbitration, it shall be in Sheboygan, Wisconsin.
- (6) The decision arrived at by the Parties through mediation or by arbitration shall be final and binding upon the Parties and a judgment thereon may be entered in and be enforced by any court having jurisdiction hereof.

This is the entire Agreement of the parties and consists of thirteen (13) typewritten pages, including the following page.

City of Sheboygan, Wisconsin, a municipal corporation

By 
Mayor Juan Perez

Attest 
Susan Richards, City Clerk

Sail Sheboygan, Ltd.

By Thomas Atkins
Thomas Atkins, President

By Chris Werner
Chris Werner, Treasurer

STATE OF WISCONSIN)
) SS.
SHEBOYGAN COUNTY)

Personally came before me this 28th day of January, 2009, Juan Perez, Mayor, and Susan Richards, City Clerk of the above-named Municipal Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Mayor and City Clerk of said Corporation, and acknowledged that they executed the foregoing instrument as such officers of said Corporation by its authority.

Stephen G. McLean
*
Notary Public, Sheboygan County, WI
My commission expires 12/31/11

STATE OF WISCONSIN)
) SS.
SHEBOYGAN COUNTY)

Chris Werner

Personally came before me this 28th day of January, 2009, Thomas Atkins, President, and Jennifer D. Westenberg of the above-named Sail Sheboygan, Ltd., to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Treasurer of said Corporation, and acknowledged that they executed the foregoing instrument as such officers of said Corporation by its authority.

Jennifer D. Westenberg
*
Jennifer D. Westenberg
Notary Public, Sheboygan County, WI
My commission expires 7/19/09

This Agreement is approved and authorized in accordance with Res. No. 182-08-09.

Examined and Approved as to Form and Execution this 28th day of January, 2009

Stephen G. McLean
Stephen G. McLean
City Attorney

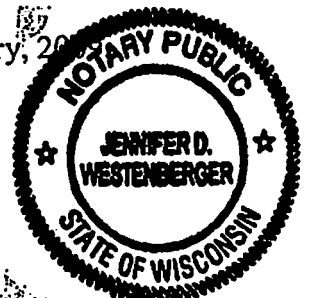


EXHIBIT "A"

NORTHERLY PARCEL - SHEBOYGAN YOUTH SAILING CENTER

PROPOSED LEASE BOUNDARY DESCRIPTION (DRAIN IN RED)

PART OF THE NE 1/4 OF THE SE 1/4 SEC. 23, T15N, R23E, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN;

MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT A POINT ON THE SOUTHERLY LINE OF CENTER AVENUE PROLONGATED TO THE EAST AND THE EASTERLY LINE OF BROUGHTON DRIVE;
 THENCE N00°00'00"E ALONG SAID SOUTHERLY LINE, 130.25 FEET;
 THENCE N02°33'11"E, 10.59 FEET;
 THENCE 73.40 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 73.51 FEET AND A CHORD THAT BEARS N45°28'20"E, 70.54 FEET;
 THENCE N18°33'30"E, 23.59 FEET;
 THENCE S89°27'49"E, 19.01 FEET;
 THENCE N06°56'28"E, 108.83 FEET TO THE POINT OF BEGINNING (POB);

THENCE N06°56'28"E FROM SAID POINT OF BEGINNING (POB), 76.10 FEET;
 THENCE S88°13'11"E, 34.78 FEET;
 THENCE N49°56'00"E, 10.03 FEET;
 THENCE S85°36'54"E, 6.00 FEET TO A MEANDER LINE OF LAKE MICHIGAN;
 THENCE S05°21'00"W ALONG SAID MEANDER LINE, 00.40 FEET;
 THENCE N56°07'34"W, 5.00 FEET;
 THENCE N05°44'22"W, 39.84 TO THE POINT OF BEGINNING (POB);
 INCLUSIVE OF LANDS BETWEEN SAID MEANDER LINE AND THE THE WATERS EDGE OF LAKE MICHIGAN;
 INCLUSIVE OF REPARIAR RIGHTS;
 CONTAINING 5,879 S.F. (0.137 AC.) MORE OR LESS OF LAND TO THE WATERS EDGE.

SOUTHERLY PARCEL - SAIL SHEBOYGAN, LTD.

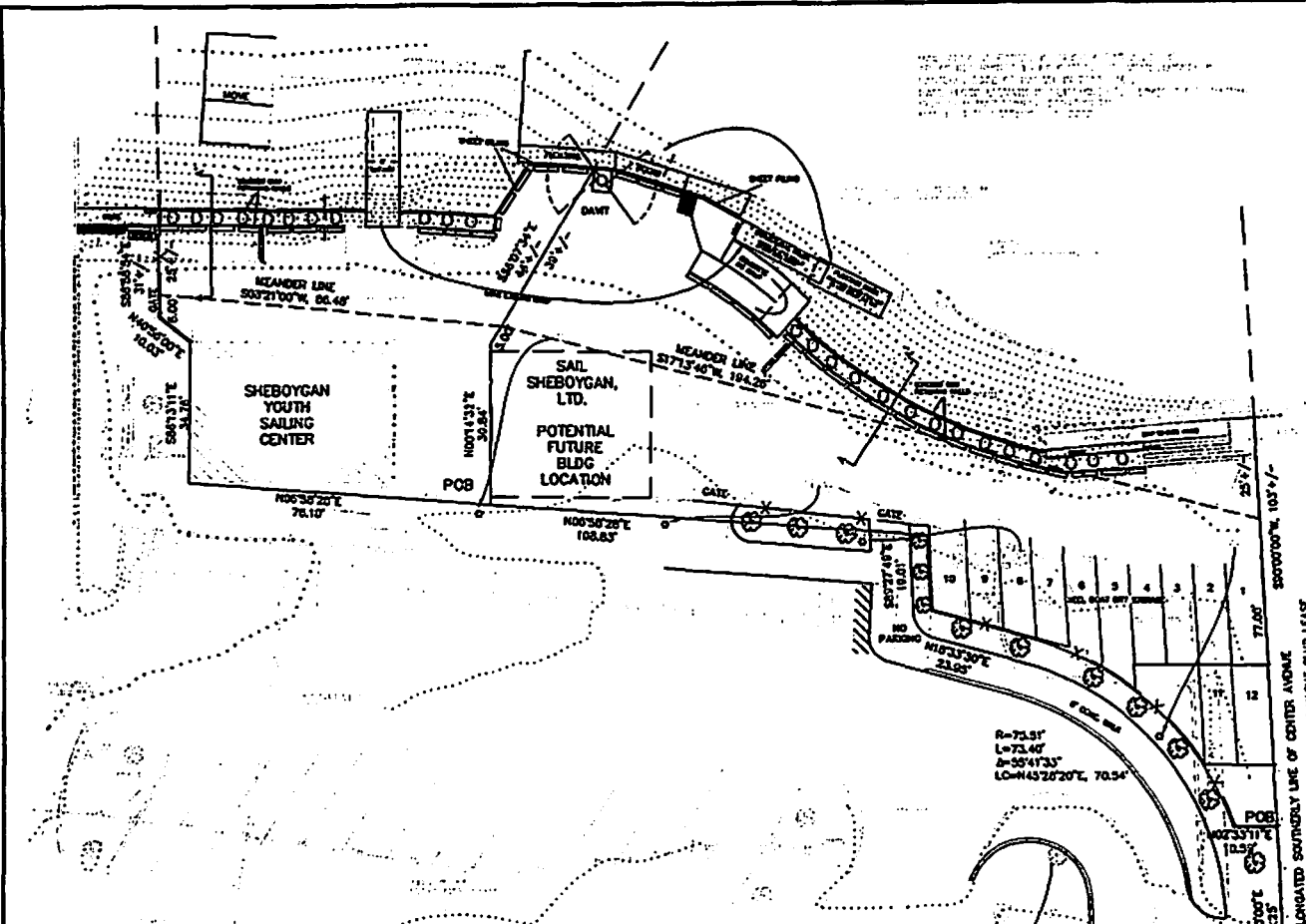
PROPOSED LEASE BOUNDARY DESCRIPTION (DRAIN IN RED)

PART OF THE NE 1/4 OF THE SE 1/4 SEC. 23, T15N, R23E, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN;

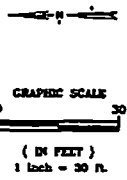
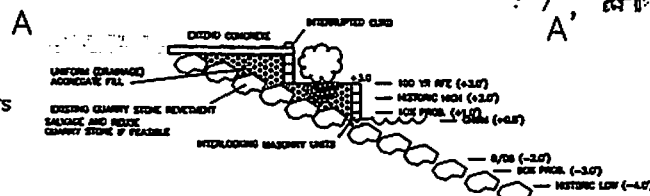
MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT A POINT ON THE SOUTHERLY LINE OF CENTER AVENUE PROLONGATED TO THE EAST AND THE EASTERLY LINE OF BROUGHTON DRIVE;
 THENCE N00°00'00"E ALONG SAID SOUTHERLY LINE, 130.25 FEET TO THE POINT OF BEGINNING (POB);

THENCE N02°33'11"E, 10.59 FEET;
 THENCE 73.40 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 73.51 FEET AND A CHORD THAT BEARS N45°28'20"E, 70.54 FEET;
 THENCE N18°33'30"E, 23.59 FEET;
 THENCE S89°27'49"E, 19.01 FEET;
 THENCE N06°56'28"E, 108.83 FEET;
 THENCE S88°13'11"E, 34.78 FEET;
 THENCE S85°36'54"E, 5.00 FEET TO A MEANDER LINE OF LAKE MICHIGAN;
 THENCE S17°13'46"W ALONG SAID MEANDER LINE, 194.26 FEET;
 THENCE S80°00'00"W ALONG SAID SOUTHERLY PROLONGATED LINE OF CENTER AVENUE, 77.00 FEET TO THE POINT OF BEGINNING (POB);
 INCLUSIVE OF LANDS BETWEEN SAID MEANDER LINE AND THE THE WATERS EDGE OF LAKE MICHIGAN;
 INCLUSIVE OF REPARIAR RIGHTS;
 CONTAINING 11,273 S.F. (0.259 AC.) MORE OR LESS OF LAND TO THE WATERS EDGE.



CROSS SECTION A-A'



--- PROPOSED SITE IMPROVEMENTS

NO.	DATE	DESCRIPTION	BY	SCALE	DATE	BY	WF	CHK	SHEET
1				1"=30'	Nov. 24, 2003		WF		1 of 1
					8-17824-46		RM		

SHEBOYGAN YOUTH SAILING CENTER & SAIL SHEBOYGAN LEASE BOUNDARIES

MILLER ENGINEERS SCIENTISTS
 3308 S. 12th Street
 Sheboygan, WI 53081-8099
 Phone 920-456-8184
 Fax 920-456-0369
 www.miller2000.com

SAIL SHEBOYGAN
 619 BROUGHTON DRIVE
 SHEBOYGAN, WI 53081

SCALE	DATE	BY	WF	CHK
1"=30'	Nov. 24, 2003		WF	
	8-17824-46		RM	

RES NO. _____ 14-15. By Alderperson Hammond. February 16, 2015.

RESOLUTION to authorize a transfer of appropriations in the 2015 Budget.

RESOLVED: That the Finance Director be and is hereby authorized and directed to make the following transfers of appropriations in the 2015 Budget for the purposes of:

Establish appropriation for purchase of a Kawasaki Mule multi-use vehicle

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Motor Vehicle Fund Vehicle Maintenance 70136100-522110	Motor Vehicle Fund Light Equipment 70136100-641200	\$8,900

Establish appropriation for purchase of a Vermeer stump cutter

Motor Vehicle Fund Unreserved Retained Earnings 701-272000	Motor Vehicle Fund Heavy Equipment 70136100-641400	\$45,634
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BE IT FURTHER RESOLVED: That the City Clerk publish this budget change according to §65.90(5) of the Wisconsin Statutes.

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the _____ day of _____, 20____.

Dated _____ 20____. _____, City Clerk

Approved _____ 20____. _____, Mayor